

Honorable Thomas S. Zilly

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STRIKE 3 HOLDINGS, LLC, a Delaware
corporation,

Plaintiff,

vs.

JOHN DOE subscriber assigned IP address
73.225.38.130,

Defendant.

Case Number: 2:17-cv-01731-TSZ

**STIPULATED MOTION AND
[PROPOSED] ORDER TO EXTEND
CERTAIN CASE MANAGEMENT
DEADLINES**

**Noted for Consideration:
Monday, March 18, 2019**

Plaintiff, Strike 3 Holdings, LLC (“S3H”) and Defendant, JOHN DOE subscriber assigned IP address 73.225.38.130 (“DOE”) (jointly referred to as the “Parties”), by and through their counsel, jointly move to extend case deadlines. In support of their motion, the Parties assert the following:

1. A scheduling order “may be modified only for good cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4). “Rule 16(b)’s ‘good cause’ standard primarily considers the diligence of the party seeking the amendment.” *In re Washington Mut. Mortg. Backed Sec. Litig.*, No. C09-37MJP, 2011 WL 13193267, at *1 (W.D. Wash. Dec. 27, 2011), *quoting*

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1 *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). The Parties believe
2 good cause exists to extend several case-related deadlines.

3 2. On December 20, 2018, this Court entered a scheduling order listing the case
4 management deadlines in this case. Since December 2018, the Parties have been propounding
5 and responding to discovery, coordinating deposition dates for a number of individuals located
6 out-of-state and out of the country, producing documents, and conferring on a number of
7 discovery disputes. However, the Parties require additional time to produce expert reports,
8 conduct depositions, resolve a number of discovery disputes, and otherwise complete discovery.

9 3. Additionally, on January 15, 2019, S3H served DOE with its First Set of
10 Requests for Production, Interrogatories, and Requests for Admissions. Significantly, S3H has
11 requested production of DOE's computer hard drives used in his residence during the period of
12 alleged infringement. On February 11, 2019, at DOE's request, S3H provided DOE with a two-
13 week extension to respond to this discovery. S3H provided DOE with another two-week
14 extension to serve his responses on February 21, 2019 after DOE suffered a death in his family.
15 DOE also hired new counsel during the interim. As a result, DOE's responses are not due until
16 March 18, 2019. Counsel for Doe has indicated that the deposition of Doe cannot take place
17 until at least the second half of April 2019 and S3H's expert will need to review the transcript of
18 that deposition.

19 4. S3H's computer forensics expert will not have the opportunity to review DOE's
20 production prior to March 18th. As a result, S3H cannot provide an expert report regarding
21 DOE's production by today's expert disclosure deadline. Nor is DOE able to depose S3H's
22 expert until after production of the report. Moreover, the Parties are still negotiating a protocol
23 to address the scope of S3H's inspection of DOE's hard drives. DOE requires that a protocol be
24 in place before S3H's may obtain discovery regarding DOE's hard drives.

25 5. Similarly, S3H has not produced the underlying software that IPP allegedly used
26 to detect the infringement that is the subject of S3H's accusations against DOE. DOE's expert

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cannot provide a report regarding the software until it has been produced. DOE anticipates motion practice on this issue as well as related discovery disputes.

6. The Parties also request that the Court impose a deadline for rebuttal expert reports of April 30, 2019.

7. The Parties do not seek to move the trial date, or the trial-related deadlines.

8. The Parties propose the following case management deadlines:

	Current Deadline	Proposed New Deadline
Disclosure of Expert Testimony	March 15, 2019	April 15, 2019
Disclosure of Rebuttal Expert Testimony, if any	N/A	April 30, 2019
Discovery Motions Filing Deadline	April 18, 2019	May 20, 2019
Discovery Completion Deadline	May 20, 2019	June 19, 2019
Mediation/Settlement Conference Deadline	June 14, 2019	July 15, 2019
Dispositive Motions Filing Deadline	June 20, 2019	July 22, 2019
Deadline for Filing motions related to expert testimony (e.g., Daubert Motions)	June 27, 2019	July 29, 2019
Motions in Limine filing Deadline	August 22, 2019	August 22, 2019 (same)
Agreed pretrial order due	September 13, 2019	September 13, 2019 (same)
Trial briefs due	September 13, 2019	September 13, 2019 (same)
Proposed voir dire questions and jury instructions OR proposed findings of fact and conclusions of law due	September 13, 2019	September 13, 2019 (same)
Pretrial conference	September 20, 2019 at 11 am	September 20, 2019 at 11 am (same)
Jury/Bench Trial Date (2-3 days)	September 30, 2019	September 30, 2019 (same)

9. This request is made in good faith and not made for the purpose of undue delay.

10. No previous requests to extend any of the deadlines in this case have been made by either party.

IT IS SO STIPULATED.

DATED this 16th day of March, 2019

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FOX ROTHSCHILD LLP

By: /s/ Bryan J. Case
Bryan J. Case, WSBA #41781
1001 Fourth Avenue Suite 4500
Seattle, WA 98154
Telephone: 206-625-3600
Facsimile: 206-389-1708
Email: bcase@foxrothschild.com

Attorneys for Plaintiff

Terrell Marshall Law Group PLLC

By s/ Adrienne D. McEntee
Adrienne D. McEntee, WSBA #34061
936 North 34th Street, Suite 300
Seattle, Washington 98103
Telephone: (206) 816-6603
Fax: (206) 319-5450
E-mail: amcentee@terrellmarshall.com

Law Offices of J. Curtis Edmondson, PLLC

/s/ J. Curtis Edmondson
J. Curtis Edmondson, WSBA #43795
Email: jcedmondson@edmolaw.com
EDMONDSON IP LAW
399 NE John Olsen Avenue
Hillsboro, Oregon 97124
Telephone: (503) 336-3749

Attorneys for John Doe

ORDER

Based on the foregoing Stipulation, the Court ORDERS that the case deadlines shall be created and/or adjusted as stated above.

DATED this ____ day of _____, 2019.

THOMAS S. ZILLY
UNITED STATES DISTRICT JUDGE

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CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2019, I electronically filed the foregoing document was served via CM/ECF the following:

FOX ROTHSCHILD LLP

By: /s/ Bryan J. Case
Bryan J. Case, WSBA #41781
1001 Fourth Avenue Suite 4500
Seattle, WA 98154
Telephone: 206-625-3600
Facsimile: 206-389-1708
Email: bcase@foxrothschild.com

Attorneys for Plaintiff

By: /s/ Bryan J. Case

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